

HAMILTON FIELD NATURALISTS CLUB



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Re. **Restoration of Sanctuary status of Lake Reserves Linlithgow & Bullrush.**

HFNC seeks support from the Shire of Southern Grampians for the restoration of the Sanctuary status of the Lake Reserves of Lake Linlithgow and Lake Bullrush that was conferred in 1928 but supposedly lost in the 1975 revision of the Wildlife Act.. These Lake Reserves were once managed by the former Shire of Mt Rouse; the responsibility is now shared by the Southern Grampians Shire Council and Parks Victoria (PV).

Since about 1983, duck hunters have taken advantage of the uncertainty and have been active on these lakes. These wetlands are major feeding grounds in summer and autumn for waterbirds, including large flocks of migratory waders and also a flocking site for Brolga, which have been displaced by hunters. That is a serious problem in a drying climate with diminishing wetlands. There are now no significant sanctuaries on Crown Lands for wildfowl in our region.

The wetlands also cater for major recreational activities when there is a sufficient depth of water, and have always been a place for picnics and a major attraction for bird-watchers. The current laws propounded by the Game Management Authority make it an offence for those who are not hunters to be on or near the water of wetlands listed under Schedule 8 of the Act in the early-mid morning and mid-afternoon-early evenings during the open season for duck hunting. Lake Linlithgow and Lake Bullrush have not yet been listed but may well be in future. That would severely restrict public access, particularly for bird-watchers, because the early morning is the best time for observing birds.

The current situation is that the Minister for Environment referred our request in June 2015 for restoration of sanctuary status for the Lake Reserves to a Mr Peter Beaumont (Executive Director Land Management Policy, DELWP). He ignored the issue of restoration of sanctuary status; instead he mentioned duck shooting regulations. We had encountered a bureaucratic impasse.

Correspondence over the years since 1978 on the issue of sanctuary status for these lakes has been summarised in Appendix 2. That correspondence indicates the following:

- Matters of fact – there are differences of opinion from Department officials as to whether sanctuary status on the lakes was lost, what status a sanctuary has, and whether duck hunting is permitted there or on Lake Reserves. Hough (2005) concluded that *“hunting at these sites may require clarification by legislation”*. Hull (2009) concluded that the lakes were sanctuaries and that hunting was NOT permitted. Another view, from Walsh (Jul 2014), is that the lakes were *‘unoccupied Crown Land... as there were no leases or licences over the areas* (hunting is permitted on “unoccupied” Crown Land). Ironically, it seems that the grazing leases that were removed by PV to allow restoration of native vegetation would now possibly prevent hunting!
- Operational matters – DELWP & Game Victoria have not followed the prescription for refuges that were stipulated in Criterion 2 of the 1992 Strategy for the Review of Wildlife Reserves. *“Each major hunting wetland must have at least one major refuge within a distance that permits waterbirds to move from hunted waters to the refuge without causing significant stress...”* There are NO sanctuaries in our region and all of the large wetlands are hunted over, as well as almost all of the small wetlands. In 2015, 50 Brolga (and all other waterfowl) were offered Krause Swamp, a small, dry, wetland 200 m from the shooters, as a temporary ‘refuge’!
- Victorian Environmental Assessment Council – VEAC can, if requested by the Environment Minister, examine the legal/technical issues around this situation and the basis for restoration of sanctuary status.

A non-partisan approach would be for the Minister for Environment to request that VEAC investigate the matter to resolve the issues and consider the case for restoring sanctuary status. We have submitted a request to the Minister asking for that review by VEAC.

The Shire of Southern Grampians obviously has a substantial potential input because these wetlands are within the Shire and the Shire is the managing authority for part of the lakes. In that sense the lakes can hardly be regarded as “unoccupied Crown Land” (a reason given by Minister Walsh in 2014 for the right to hunt on these lakes).

HFNC respectfully requests that the Shire of Southern Grampians supports their submission to the Minister for Environment requesting an examination by VEAC of the case for restoration of the Sanctuary status of the Lake Reserves of Lake Linlithgow and Lake Bullrush.

We are happy to attend a meeting of the Shire Council and discuss this issue.

Yours faithfully

Dr PR Bird

Secretary
Hamilton Field Naturalists Club

Appendix 1. Summary of points regarding restoration of sanctuary status for Lakes Linlithgow & Bullrush

Appendix 2. Background on the nature and history of Lake Linlithgow & Lake Bullrush and summary of correspondence relating to restoration of sanctuary status.

Appendix 1:

Summary of points regarding restoration of sanctuary status for Lakes Linlithgow & Bullrush.

1. **Sanctuary status was conferred in the Game Act 1928.** This status was supposedly lost in the 1975 revision of the Wildlife Act. Hunting began there in 1985 and sporadically thereafter, with major impacts from about 2013 and shooting of protected species (Freckled Duck) in 2014 and the dispersal of 50 Brolga in 2015.
2. **There are NO other wetland sanctuaries for waterbirds in our region**
3. **Sanctuaries are needed for wildlife conservation and recreational needs:**
 - Wetland habitats are shrinking because of climate change and series of dry years leaving little or no water in the lakes and swamps in summer/autumn. This is illustrated by data for Lake Linlithgow where the average water depth in February over the last 17 years (1999-2015) is 14 cm compared with 158 cm for the 15 years before that (1984-98).
 - Waterbirds, including migratory waders and Brolga, have fewer places available for feeding or resting undisturbed by hunters.
 - Lakes Bullrush & Linlithgow have long been sanctuaries for Brolga, an endangered species in Victoria. These wetlands are an autumn flocking site, considered vital in the lead up to the breeding season. Hunting evicts Brolga from such sites and disperses them.
 - Lakes Linlithgow & Bullrush are very significant feeding waters for migratory waders protected under JAMBA (Japan), CAMBA (China) Aust. Migratory Bird Agreements.
 - Lakes Linlithgow & Bullrush are major feeding grounds for endangered migratory Sharp-tailed Sandpipers & Red-necked Stints; flocks of up to 5,000 birds occur there.
 - The proper operation of game hunting regulations in Victoria is supposed to have refuges within reach of waterbirds on hunted reserves. Allowing hunting on Lake Bullrush in 2015, the only major wetland in the district with any water, and where a flock of Brolga were feeding/resting, was not in the spirit or letter of the regulations.
 - Residents and tourists/birdwatchers should have access to some recreational natural wetland reserves where shooting is not permitted at any time.
4. **Arguments against restoring the sanctuary status of Lakes Linlithgow & Bullrush:**
 - Duck hunters contribute to the local economy – true, BUT the great majority of wetlands in the region (including major wetlands of Lake Kennedy, Bradys Swamp, Bryans Swamp, Rocklands, Lake Bolac, Lake Muirhead and Tower Hill) are open to hunting, as are almost all ‘Unoccupied’ Crown Lands. Restoring Sanctuary Status to Lakes Linlithgow & Bullrush will have very little impact on local sales of sporting equipment (guns, shot, etc) or on visitors spending in Hamilton or local towns.
 - Duck hunters will be deprived of a shooting venue – true, BUT as outlined above
 - these wetlands were sanctuaries; the change was an unintended consequence of the revised Wild Life act of 1975;
 - there are a host of other places (most wetlands) where hunting is permitted;
 - the conservation needs of protected species must also be taken into account;
 - other recreational needs of people must also be considered – duck hunting is not a major sport in Victoria, accounting for only perhaps 25,000 active hunters and is disapproved of by at least 75% of the adult population. Duck hunters have now an exclusive right to be on ‘listed’ wetlands on early mornings and late afternoons of the open duck hunting season – that could soon be widened to include Linlithgow & Bullrush if their status is not improved.

Appendix 2.

Background on the nature and history of Lake Linlithgow & Lake Bullrush and summary of correspondence relating to restoration of sanctuary status.

Lake Linlithgow (LLIN) and Lake Bullrush (LBR) have the status now of Lake Reserves. In 1928 both lakes were declared Sanctuaries and that situation prevailed until the revision of the Wildlife Act of 1975 was deemed to have resulted in the loss of sanctuary status, a situation first exploited by duck hunters in 1985. From 1985 to 2015, HFNC has urged the Victorian Government to restore the Sanctuary status of the LLIN-LBR complex but there has been reluctance by government to take the necessary legislative action.

A brief background summary of the nature and history of these wetlands.

- LLIN and LBR were formed when the Phase 2 lava flows about 2 million years ago left these areas on the Phase 1 basalt flows uncovered. LLIN covers about 1000 ha and is fed from Boonawah creek. LBR has about 150 ha and is fed from overflow from Krause Swamp.
- The tree vegetation on the banks of LLIN has been substantially restored since 1975 by HFNC and Parks Victoria (PV). PV cancelled grazing licences in 2003 and engaged in a massive planting of trees indigenous to the area, finishing in 2009. HFNC assisted in that effort.
- LLIN & LBR are very significant water bird areas, with several endangered migratory and Australian species feeding on the lake (10 species are listed by JAMBA). For example, in the last 10 years flocks of 4000-5,000 migratory Sharp-tailed Sandpipers were seen feeding on these lakes on 2 years. HFNC has monitored the birds of LLIN for 50 years and has published records and a history of the lakes.
- LLIN & LBR dry out periodically, often over autumn. George Augustus Robinson (Protector of Aborigines) found LLIN dry in 1841. In the last 17 summers (Feb 1999-2015) the lake has been dry by February in 10 years. The ave. water depth in Feb. for the 17 years was 14 cm. For the previous 15 years (Feb 1984-1998) there were no dry years and the ave. depth in Feb. was 158 cm. There were floods in 1893, 1894, 1946, 1951, 1952 & 1956 that saw water overflowing the banks of LLIN.
- People from Hamilton, Peshurst and surrounding areas have been accustomed since 1928 to the lakes being sanctuaries where hunting was not permitted. Both waters have been popular for yachting, boating and wind-surfing when conditions were suitable. LLIN has, until recent years, always been a place for picnics. It has also been a magnet for bird watchers. The lakes have Aborigine significance.

A summary of correspondence relating to the issue of restoration of Sanctuary status is given below:

1. In 1978 the Land Conservation Council's Final Report for the Corangamite Area recommended both LLIN & LBR be Lake Reserves and that the "*management authorities should recognise the importance of the recreation and wildlife values in their policies*".
2. In Mar. 1985, duck hunters were told by DCE that, because of a legal technicality, they could not be prosecuted for shooting on the lakes. Until that time the sanctuary status had been observed. Shooting had been permitted on the nearby Wildlife Reserves of Krause Swamp and Lake Kennedy.
3. HFNC to Min. Kirner in autumn 1985 – protesting this new shooting access. The Minister responded by stating "*When these areas are consolidated as a Lake Reserve, together with Bullrush Swamp, it will be possible to gazette regulations over the reserve. A regulation prohibiting hunting in the reserve will be considered at this time*". [That legislation was NOT forthcoming in later years].
4. Review of Wildlife Reserves by DCFL in 1992 – hunting had been permitted in areas of Unreserved Crown Land but only allowed in Wildlife Reserves when further categorised as State Game Reserves in the Wildlife Act 1975. [Most of the Wildlife Reserves were subsequently classified as State Game Reserves to permit hunting].
5. The 1992 Review stipulated that "*Each major hunting wetland must have at least one major refuge within a distance that permits waterbirds to move from hunted waters to the refuge without causing significant stress. If the refuge for a major hunting water is not effective, partial or full closure of the hunted water should be undertaken*". [That requirement has been ignored in recent years at LBR].
6. In 1992, HFNC wrote to NRE regarding the sanctuary status of LLIN & adjacent wetlands.
7. HFNC to Min. Thwaites Sept. 2003 – regarding sanctuary status of LLIN and adjacent wetlands, pointing out that hunting on any of the 5 wetlands in the complex was very detrimental to wildlife, especially Brolga that frequented these wetlands and adjacent farms in summer/autumn.
8. HFNC to Min. Thwaites in Feb. 2005 – requesting a response to the previous letter.
9. DSE on behalf Min. to HFNC 27 Feb. 2005 – "*The Department of Sustainability and Environment has sought advice on the legal status of 'sanctuary' and your interpretation that duck hunting 'cannot be legally prevented in these areas'. It does appear that Lakes Linlithgow and Bullrush continuing to have sanctuary status that prevents hunting at these sites may require clarification by legislation.... There is no plan by the Government to introduce amending legislation into Parliament*".

10. HFNC Oct 2005 to Victorian Environmental Assessment Council (VEAC) regarding sanctuary status and request for VEAC to re-assess the situation.
11. VEAC 18 Sep. 2006 – “without Terms of Reference from the Minister for Environment, VEAC cannot make a specific recommendation that all of these wetlands should be sanctuaries” “VEAC would not carry out an ad hoc investigation for a specific area such as the Lake Linlithgow wetlands, unless requested by the Minister”.
12. HFNC to DSE 14 Oct 2006 – sanctuary status and duck hunting on LLIN & associated wetlands.
13. HFNC to DSE (J Holms) 30 Jan 2009 – conservation status of LLIN & associated wetlands
14. HFNC to DSE (J Holms) 14 Oct 2009 – conservation status of LLIN & associated wetlands
15. DSE (G Hull) to HFNC 7 Dec 2009 – “Lake Linlithgow and Bullrush Swamp are *designated Wildlife Sanctuaries* and hunting is *NOT permitted*. Krause Swamp is a Nature Conservation Reserve and hunting is not permitted. Lake Kennedy is a State Game Reserve and hunting in the declared open season is permitted. Salt Lake [Harnath Wildlife Reserve] is *unreserved Crown Land* and hunting of game and feral species is generally permitted...”
16. HFNC to Game Victoria, 20 Mar. 2014 – shooting of protected species on LBR and sanctuary status.
17. HFNC to Director Shire Futures, Southern Grampians Shire Council (SGSC) 21 Mar. 2014 – information on sanctuary status LLIN & LBR
18. HFNC to Lisa Neville 21 Mar. 2014 – sanctuary & duck shooting issues at LLIN & LBR. Advice from DEPI that PV & Land Vic consider that both LLIN & LBR are unreserved Crown Land with no over-riding legislative regulations. The title ‘Lake Reserve’ has no legislative basis.
19. HFNC to Game Victoria 25 Mar. 2014 – sanctuary status and LCC statement re. Lake Reserves
20. DEPI P Beaumont to HFNC 1 May 2014 - responding on behalf of P Walsh Minister for Agriculture etc. [His letter did NOT address the issue of sanctuary status but gave a standard GMA reply]
21. HFNC to DEPI Beaumont & Min. Agric Walsh 10 May 2014 – LLIN & LBR are NOT State Game Reserves or Unreserved Crown Lands where the Govt Website says hunting is allowed. They are Lake Reserves and managed by PV & the Shire of Southern Grampians.
22. Min. Agriculture Walsh to HFNC 16 Jul 2014 – The DEPI considers that Lake Linlithgow and Bullrush Swamp are unoccupied [Crown Land] as no leases or licences exist over these areas”
23. HFNC to Min. Agriculture Walsh 21 Jul. 2014 – matter is about restoration of sanctuary status.
24. HFNC to Lisa Neville 21 July – update on LBR & LLIN
25. HFNC to M McCarthy SGSC 21 Jul 2014 – update on LLIN & LBR situation
26. DEPI Beaumont to HFNC 1 Sep 2014 – “there is no current intention to confer Sanctuary Status on Lake Linlithgow and Bullrush Swamp or prohibit duck hunting in those areas”.
27. HFNC to M. McCarthy SGSC 16 Dec 2014 – update.
28. HFNC to Lisa Neville Min for Environment 17 Dec. 2014 – sanctuary status sought for LLIN & LBR
29. Min. Env. to HFNC 23Dec 2014 – response forthcoming shortly from the Minister
30. HFNC to Min Env. Neville 13 Mar 2015 – duck hunting & major broлга flocking site at LBR
31. Min. Agriculture Pulford to HFNC 15 Jun 2015 – LBR duck hunting & Krause Swp issue
32. HFNC to Min Agric Pulford 23 Jun 2015 – impact on Broлга of hunting on LBR & Krause Swp issue
33. HFNC to Minister for Environment, Lisa Neville 23 June 2015 – renewed request to consider the case for restoration of sanctuary status for LLIN & LBR
34. DEDJTR Beaumont on behalf of Min. Environment to HFNC 2 Sep. 2015 – the response discussed Broлга concerns (a flock of 50 were displaced by hunters on LBR this year) and general duck season management. [He made no mention of the issue of Sanctuary status that was raised with the Minister].

Key points relating to this issue of sanctuary status for Lakes Linlithgow and Bullrush:

- Over time, there are differences of opinion from DELWP/Environment department officials as to what a sanctuary is and whether duck hunting is permitted (see 9, 15, 18 and 22 above). Legislative action is required to clarify the situation (see 9).
- DEDJTR considers that hunting is permitted on ‘unreserved’ or ‘unoccupied’ Crown land, such as LLIN & LBR, upon which there are no leases or licences (see 22). That is a strange interpretation that requires revision.
- DELWP & Game Victoria have not followed the prescription for refuges that must be provided in each hunting area (there are no sanctuaries in our region) (see 1 & 5). How can a flock of 50 Broлга have their welfare accommodated at a dry swamp just 200 m from a wetland that is open to hunting, as happened in 2015 at LBR? That degree of cynicism should offend everyone.
- VEAC can, if requested by the Environment Minister, examine the legal/technical issues around this situation and the basis for restoration of sanctuary status – we seek such an enquiry (see 11).